

**MINUTES OF THE
PRIVATELY OWNED HEALTH CARE ORGANIZATION TASK FORCE**

Thursday, September 21, 2006 – 9:00 a.m. – Room W135 House Building

Members Present:

Sen. Michael G. Waddoups, Senate Chair
Rep. David Clark, House Chair
Sen. John W. "Bill" Hickman
Sen. Peter C. Knudson
Sen. Mark B. Madsen
Sen. Ed Mayne
Rep. Jackie Biskupski
Rep. Stephen D. Clark
Speaker Greg J. Curtis
Rep. Brad L. Dee
Rep. James A. Dunnigan
Rep. Patricia W. Jones
Rep. Bradley G. Last
Rep. Rebecca D. Lockhart

Members Absent:

Sen. Gene Davis

Staff Present:

Constance C. Steffen, Policy Analyst
Allison Morgan, Policy Analyst
Catherine J. Dupont, Associate General Counsel
Joy L. Miller, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.leg.utah.gov.

1. Task Force Business

Chair Waddoups called the meeting to order at 9:15 a.m.

MOTION: Sen. Hickman moved to approve the minutes of the June 29, 2006 meeting. The motion passed unanimously. Sen. Madsen, Sen. Mayne, Rep. S. Clark, Speaker Curtis, and Rep. Dunnigan were absent for the vote.

2. Definition of Charity Care

Ms. Steffen discussed the definition of charitable care as it applies to sales and income tax exemptions. She reviewed "Major Tax Exemptions Available to Private Nonprofit Organizations" and "Standards for Qualifying for a Federal Income Tax Exemption under Internal Revenue Code §501(c)(3)," which were included in the mailing packet. For the purpose of determining whether a charitable organization qualifies for a sales or state income tax exemption, the state defers to federal standards, which are the standards for qualifying for a federal income tax exemption under Internal Revenue Code §501(c)(3).

Commissioner Bruce Johnson, Utah Tax Commission, explained the standards for qualifying for a property tax exemption as a charitable hospital or nursing home. He reviewed "Charitable Property Tax Exemption Standards" which was included in the mailing packet. He said a hospital must respond to the public interest and establish that it reflects the public interest. There must be a gift to the community provided by the organization that is in excess of the tax benefit it receives by virtue of its exemption. A primary way of providing the gift is through indigent care.

Commissioner Johnson distributed and discussed "Computation of Charity Care." He explained that if a patient were charged for services but the organization could not collect, that is considered bad debt, not charitable care.

Commissioner Johnson referred to a court case in which Cache County challenged IHC's tax exempt status. The Supreme Court provided guidance as to what constituted a gift to the community. The current standards are based on that court decision. He noted property taxes are enforced at the county level, and the State Tax Commission has never been asked to conduct an audit, on behalf of a county, of a charitable exemption.

Rep. Lockhart questioned if it is required in code that an assessment be made every year and asked how the public would know what the valuation of the property is on a year-to-year basis. She requested that Mr. Johnson provide information concerning which counties are performing the assessments.

Mr. Johnson responded that the Commission has prepared guidelines to assist county assessors in valuing hospitals. Statute requires assessors to establish property values annually. County assessors are also required to visit individual properties once every five years.

Rep. Dunnigan asked if the community benefit standard would include time donated by a nurse and if it could be changed by statute. Mr. Johnson responded that it does include time that is donated by a nurse and indicated that it could be changed by statute.

Ms. Dupont pointed out that in 1974, the Legislature created a statute attempting to clarify provisions of the constitutional property tax exemption for nonprofit charitable organizations. The court did not agree with the statute and adopted, with one dissent, generalized standards for the appropriate calculation of charitable care. When the State Tax Commission and county assessors tried to implement the generalized principles, it was determined that more guidance was needed. The State Tax Commission adopted the standards that are currently in place. After a challenge by county assessors, the Supreme Court said that each of the standards adopted by the State Tax Commission paralleled and complimented the court's standards based on a 1985 decision.

Sen. Waddoups indicated that his intent for discussing tax exemptions for charitable organizations was to determine if there are reasons to extend the exemption to others, not take it away from IHC.

Ms. Morgan distributed a letter regarding taxes paid by for-profit hospitals and health insurers. She said at the request of Sen. Waddoups, she asked the State Tax Commission for data on taxes paid by for-profit hospitals. Sales taxes collected by for-profit hospitals on products and services sold by the hospitals amounted to \$750,000 in fiscal year 2003 and \$900,000 in fiscal year 2004. Corporate franchise taxes of for-profit hospitals were \$450,000 in both 2003 and 2004. Property taxes paid by for-profit hospitals were estimated to be \$4.4 million in 2004.

Ms. Morgan explained the State Tax Commission does not have data on sales taxes paid by for-profit hospitals on products and services purchased by the hospitals. However, Tax Review Commission (TRC) did a study of sales taxes both collected by and paid by hospitals in 2001. Sales taxes for that year were estimated as follows: IHC - \$16.9 million, Lifepoint - \$366,000, IASIS - \$1.6 million, and MountainSar - \$4.4 million.

Mr. Scott Barlow, Central Utah Clinic, distributed an article, "The Trouble with Uncompensated Hospital Care." He said the means and methods of calculating charitable care are outdated in today's health care settings. Fiscal policy must encourage the maximum value to be realized for the exemptions

extended. Mr. Barlow stated Central Utah Clinic provided \$1.7 million in charitable care in 2005 and \$30 million in uncompensated care.

Rep. D. Clark asked how lowering the operating costs of a facility would translate into improved health care rather than returns. Mr. Barlow referred to a study done in California to identify the meritorious issues that warrant tax policy adjustments.

Mr. Roger Tew, consultant, explained that applicants requesting a property tax exemption must submit a very detailed request each year to the county. He expressed concern that there might be an underlying perception that the process has become an exercise in accounting.

Mr. Kelly Jarvis, chiropractic physician, stated he has a large building on Main Street in Heber City and has lost tenants to an IHC building connected to the hospital. He said he believed those tenants now enjoy the same tax exemption as inpatient facilities. He asked that the Legislature extend the tax exemption to all those who provide outpatient services.

Mr. Doug Hammer, IHC, explained that when IHC owns physician office buildings and leases space to a practitioner, IHC pays property taxes on that property. He stated IHC generally will not pay property taxes on free standing facilities that are licensed as part of a hospital.

Sen. Waddoups asked Mr. Hammer to obtain the property tax information on the building in question in Heber City.

Rep. Lockhart asked if IHC counts as part of its charity care or gift to the community the time that doctors spend in required meetings. Mr. Hammer responded "no" and added that IHC does not include professional time of physicians as part of charity care. However, the cost of the use of the facility would be included in the cost of providing charity care. Volunteer time is considered as part of the gift to the community.

Sen. Hickman asked what IHC's relationship is with the Huntsman Cancer Institute. Mr. Greg Poulsen, IHC, indicated that the two facilities collaborate in terms of best practices and gather data on best outcomes for cancer patients. Sen. Hickman asked if the amount of charity care provided through the collaborative effort could be provided to the Task Force.

Mr. Larry Jacobs, IASIS, stated that it pays 8-9 percent of its net profits in care that is either charitable or uncompensated care. He asked that the Legislature consider giving for-profit hospitals the same tax exemption nonprofit hospitals receive. He said it would be his desire that savings incurred from the exemption would be given back to the hospital to provide additional services.

Mr. Johnson stated sales tax deductions would not be a problem for the State Tax Commission to address. However, attempting to estimate the value of personal services and allowing a deduction for that projected value has never been done. He said it would be almost impossible for the State Tax Commission to monitor.

MOTION: Sen. Hickman moved to adjourn. The motion passed unanimously.

Chair Waddoups adjourned the meeting at 11:55 a.m.